

Judge Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

MUHAMMAD FAHD,
Defendant.

NO. CR17-0290RSL

~~PROPOSED~~ PROTECTIVE ORDER

This matter, having come before the Court on a Stipulated Motion for Entry of a Protective Order, the Court hereby enters the following order:

PROTECTIVE ORDER

1. Pursuant to Federal Rule of Criminal Procedure 16(d)(1), this Protective Order governs all discovery material in any format (written or electronic) that is produced by the United States in discovery in the above captioned case.

2. The "Defense Team" shall be limited to attorneys of record for the defendant and any of the following people working on this matter under the supervision of the attorneys of record: attorneys, investigators, paralegals, law clerks, testifying and consulting computer forensic experts, and legal assistants. For purposes of this Order, the "Defense

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1 Team” does not include Defendant. Defendant’s attorneys shall inform any member of the
2 Defense Team to whom disclosure of discovery material is made of the existence and terms
3 of this Protective Order. Members of the Defense Team shall not provide copies of any
4 discovery material to any persons outside of the Defense Team other than the Defendant.

5 3. Any discovery material produced by the United States shall only be used for
6 the purpose of preparing a defense to the charges in this action, and not for any literary,
7 commercial, or other purpose. Members of the Defense Team may review discovery
8 material with witnesses for purposes of trial preparation. The Defense Team is aware that
9 some of the discovery material may contain malware and other pernicious files.

10 4. The discovery in this case is voluminous, and many of these materials and
11 documents include (1) personally identifiable information (PII); (2) “electronic contraband”;
12 and (3) “law enforcement sensitive” materials related to ongoing investigations.

13 a. PII includes, but is not limited to, information such as such as
14 payment card numbers, cell phone IMEI numbers, Social Security numbers, driver’s license
15 numbers, dates of birth, addresses, email addresses, mothers’ maiden names, passwords,
16 financial lines of credit numbers, bank account numbers, and personal identification
17 numbers.

18 b. “Electronic contraband” shall mean malware and surveillance
19 files generated by the malware, account numbers and passwords, vulnerabilities, internal
20 network information, and non-public IP addresses of servers which contain, or which there is
21 a reasonable basis to believe contain, any of the information, files or data described above.

22 c. “Law enforcement sensitive” materials include communications,
23 reports, and other materials that relate to ongoing investigations or ongoing matters
24 occurring before the grand jury, in addition to statements given by any cooperating
25 witnesses, and documents evincing any agreement to cooperate by any such witnesses.

26 5. Redacting the discovery to delete the above material would unnecessarily delay
27 the disclosure of discovery to the defendant and would frustrate the intent of the discovery
28 process.

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1 6. Discovery material designated by the government as “Protected Material” may
2 only be possessed by the Defense Team. The “Protected Material” designation shall only be
3 used to limit the distribution of discovery containing PII, electronic contraband, or law
4 enforcement sensitive material. The Defense Team may not provide copies of Protected
5 Material to any other person, including Defendant. This order, however, does not prohibit
6 the Defense Team from discussing or reviewing Protected Material with Defendant or
7 prospective witnesses.

8 7. The government shall designate material as “Protected Material” by stamping
9 the material as “Protected Material”, or by providing the Defense Team with written
10 identification of discovery materials that constitute “Protected Material.” When possible,
11 this written identification shall include the Bates number or file name for any material being
12 designated as “Protected Material.”

13 8. If the Defense Team disagrees with the designation of any material as
14 “Protected Material,” it shall notify the government in writing of the disagreement, identify
15 with particularity each document and file at issue, and state the basis for the challenge.

16 9. The Defense Team, at any time after attempting to resolve the matter by
17 agreement with the government, may apply by motion to the Court for a ruling that
18 information designated as “Protected Material” is not entitled to protected treatment under
19 this Order. Any such motion must identify with particularity each document and file at issue,
20 and state the basis for the challenge.

21 10. Upon conclusion of this action, the Defense Team shall return to the
22 government or destroy, and certify the destruction of, all discovery material. The Defense
23 Team shall complete this process within a reasonable time, not to exceed 30 days after the
24 conclusion of the last appeal.

25 11. This Protective Order may be modified, as necessary, by filing with the Court a
26 Stipulated Order Modifying the Protective Order, or by order of the Court.

27 12. Nothing in this order should be construed as imposing any discovery
28 obligations on the government or the Defendants that are different from those imposed by

PROTECTIVE ORDER

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1 case law and Rule 16 of the Federal Rules of Criminal Procedure, and the Local Criminal
2 Rules.

3 DATED this 5th day of September, 2019.

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6 ROBERT S. LASNIK
7 United States District Judge
8

9 Presented by:

10 s/ Francis Franze-Nakamura

11 ANDREW S. FRIEDMAN

12 FRANCIS FRANZE-NAKAMURA

13 Assistant United States Attorneys

14 ANTHONY TEELUCKSINGH

15 Trial Attorney

16 Computer Crime and Intellectual Property Section
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